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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,813	05/08/2006	Paul M. Carter	22409-00288-US	3627
30678 7590 10/15/2009 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20006			EXAMINER DINGA, ROLAND	
			ART UNIT	PAPER NUMBER
			3766	
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			10/15/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/518,813

**Applicant(s)**

CARTER ET AL.

**Examiner**

ROLAND DINGA

**Art Unit**

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08/24/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5,7,9-11 and 13-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7,9-11 and 13-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/24/2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 7, 9-11, 13-14, 21- 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayhurst (US5477152) in view of Crosby et al (US.5,477,152) (both cited previously).

In regards to claims 1 and 24, Hayhurst testing apparatus for concurrently testing components [See title; col. 2, lines 15 -19]. The examiner has taken the position that the testing apparatus (50) is capable to test medical device component, the testing apparatus (50) comprising: a plurality of testing stations (14) configured to

receive and communicably couple to a first component being of a first type and a second component being of a second type, wherein the first component is not of the second type and the second component is not of the first type[col.2,lines 25-31;see fig.1]. Lacking criticality, especially when applicant has no advantage of concurrently testing the components. Therefore, the testing circuit communicably coupled to the plurality of testing stations and is capable of concurrently applying a test to each of the first and second components and to measure a response of each of the first and second components to the test[see fig.1-2;col.2,lines 32-39].

Hayhurst discloses the invention substantially as claimed but failed to disclose a cochlear implant system with a first and second component comprises a transmitter coil and coil testing station. However, Crosby discloses a cochlear implant system for an auditory prosthesis [see title] comprising a cable 26 (the first component) and a transmitter coil 24 (the second component)[see fig.3]. Thus, it would have been obvious to one of ordinary skills in the art by the time the invention was made to modify Hayhurst to be use to test cochlear implant system cable and transmitter coil since both Crosby and Hayhurst teaches about the use of coaxial cable.

In regards to claim 5,the plurality of testing stations comprise two or more stations configured to receive two or more types of cables and further configured to make an electrical connection to said cables[see fig.1-2].

In regards to claim 7,each cable testing station for each of said two or more types

of cables comprises a socket having a shape that is adapted to receive one of said two or more types of cables[see fig.1].

In regards to claim 9-10, Hayhurst discloses two testing stations see fig.1, one of this station could be taken to be the transmitter coil testing station.

Regarding claim 11, Hayhurst fails to disclose a pictorial representation of a transmitter coil. Such would have been obvious to one of ordinary skill in the art to provide a specific location on the testing station with a pictorial representation of a transmitter coil to test the transmitter coil in order that a layperson or the patient can be able to operate the device without the help from a physician.

Regarding claim 13, neither Hayhurst nor Crosby discloses that a magnet is positioned at or below the planar surface of the case; the magnet is adapted to provide magnetic alignment with a magnet within a coil under test and so maintain the coil in the correct place for testing. However, such would have been obvious to one of ordinary skill in the art to provide a magnet underneath the case of the testing station so that the magnet of the coil would attract with the one underneath the case and would help to properly position the transmitter coil for measurement.

Regarding claim 14, Hayhurst fails to disclose tested coil has a cable extending there from that is also testable by the testing apparatus. Such would have been an obvious design choice to have a cable extending there from that is also testable by the testing apparatus in order to provide electrical connection.

In regards to claims 21-23, the testing apparatus of claim 1, further comprising an output component for outputting a result and the output component is a light configured to illuminate if the tested component passes the test and the light is a light emitting diode (LED) [col.3, line 26-col.4, line 41].

Regarding claim 26, Hayhurst failed to disclose magnetically coupling at least one of two components to the testing apparatus. However, it would have been a matter of design choice to have magnetically coupled at least one of two components to the testing board in order to properly test the component that is under test.

4. Claims 1, 5, 7, 15-21, 25, 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strangio (US5280251) in view of Crosby et al (US.5,477,152) (both cited previously).

In regards to claims 1 and 24, Strangio discloses testing apparatus (50) in (fig.1) that is capable for concurrently testing components of a medical device, the testing apparatus comprising: a plurality of testing stations (L and R stations in fig.1) configured to receive and communicably couple to a first component being of a first type and a second component being of a second type [see fig.1], wherein the first component is not of the second type and the second component is not of the first type [see fig.1] ; and at least one testing circuit [see fig.2] communicably coupled to said plurality of testing stations (R and L) and capable

to concurrently apply a test to each of said first and second components and to measure a response of each of said first and second components to said test[col.2,lines 27-30]. Hayhurst discloses the invention substantially as claimed but failed to disclose a cochlear implant system with a first and second component comprises a cable and a transmitter coil and coil testing station. However, Crosby discloses a cochlear implant system for an auditory prosthesis [see title] comprising a cable 26 (the first component) and a transmitter coil 24 (the second component)[see fig.3]. Thus, it would have been obvious to one of ordinary skills in the art by the time the invention was made to modify Hayhurst to be use to test cochlear implant system cable and transmitter coil since both Crosby and Hayhurst teaches about coaxial cable.

In regards to claim 5, the plurality of testing stations (L and R) comprise two or more stations configured to receive two or more types of cables (67LR,66LR,65LR,64LR,63LR,62LR,61LR) and further configured to make an electrical connection to the cables (70) [See fig.1].

In regards to claim 7, each cable testing station (L or R) for each of said two or more types of cables comprises a socket having a shape that is adapted to receive one of said two or more types of cables [see fig1].

In regards to claim 16-19, a control circuit configured to control the operations of the testing apparatus [col.3, lines 5-14], the device of Strangio inherently content and ADC[see analog switches in fig.2 and the signal that goes to serial interface

(120) are digital]. The cable test data is saved in database [see step E in fig. 3; col. 9, lines 35-43]

In regards to claim 20, the measurements from said at least one testing circuit is in the form of current and voltage levels, and further wherein said data indicating a desired response to said first test are in the form of voltage and current ranges associated with non-faulty cables and also capable to be associated with transmitter coils used in cochlear implant systems [col. 6, lines 18-32].

In regards to claim 21, an output component for outputting a result of the comparison [col. 9, lines 16-32].

In regards to claim 15, 25 and 27, Strangio discloses that the computer provides further database resources wherein the peripheral controlled external housing having the connector groups controlled to provide the desired cable interrogation and detect signals and further the computer provides database information, wherein the cable under testing may be compared relative to pre-stored reference cable data and variety of determination [col. 1, lines 54-col. 2, line 2].

In regards to claim 28, a memory component configured to store data indicating a desired response to said first test [col. 7, line 65; col. 9, lines 35-43].

In regards to claim 29, [see col. 8, lines 56-col. 9, line 32].

### ***Response to Arguments***

5. Applicant's arguments filed 8/24/2009 have been fully considered but they are not persuasive. Applicant argued in pages 9-11 that the references of Hayhurst and Strangio does not disclose concurrently test components. The examiner has taken the



position that the references are capable of testing the first component and the second component currently since in applicant disclosure there is no advantage of testing these components at the same time.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROLAND DINGA whose telephone number is (571)270-3644. The examiner can normally be reached on Monday through Friday from 8:30am to 5:00pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571 272 4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ROLAND DINGA/  
Examiner, Art Unit 3766  
10/09/2009

/Carl H. Layno/  
Supervisory Patent Examiner, Art  
Unit 3766